

## **REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections set forth in the Final Office Action dated March 19, 2009 are respectfully requested in view of the arguments and amendments presented herein. Also accompanying this RCE is an information disclosure statement with additional references for the Examiner's consideration.

In the present response, independent claims 1-4 are amended, claims 5-8. are canceled, claim 9 is withdrawn, claims 10-74 are canceled, claims 75-127 are withdrawn, claims 128-139 are canceled claim 140 is pending, claims 141-142 are canceled, claims 143-146 are pending, claims 147-150 are withdrawn, claims 151-159 are pending, claim 160 is canceled, claims 161-168 are pending, claim 169 is canceled, claims 170-177 are pending, claim 178 is canceled, claims 179-214 are withdrawn and claim 215 is newly presented.

## **ALLOWABLE SUBJECT MATTER**

Applicant would like to thank the Examiner for the identification of previously presented claims 160, 169, 178 as being ALLOWABLE if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In this regard, Applicant has amended each of the independent Claims 1-4 to include the dependent claim limitation of claims 160, 169, 178 that the sample chamber comprises a flow through channel. Accordingly, Applicant respectfully asserts these claims are in condition for immediate allowance, which action is requested.

## **Claim Rejections**

In the previous Office Action, the Examiner rejected claims 1-4 and various other claims under 35 U.S.C. 112 first paragraph with respect to the language relating to presence and detection of a "clonal amplified product." Applicants respectfully assert that such language is supported by the specification. For example paragraphs [0049] and [0052] of the published patent application (US20040171055) disclose that the instant teachings encompass "methods of cloning a segment of DNA". According to paragraph [0052] methods of cloning a segment of DNA may comprise for example that "a sample containing a DNA segment to be amplified is divided into a plurality of sample portions" and further that "single molecules of a target DNA segment to be amplified can be detected." Thus the

language as previously set forth in the claims relating to a "clonal amplified product" fully comply with the written description requirement and do not incorporate new matter as previously asserted by the Examiner. Applicants further present new claim 215 for the Examiner's consideration which like Claims 1-4 are fully supported by the specification.

The Examiner's rejection of the claims under Section 102 and 103 are respectfully asserted to be moot in light of the amendments to each of the independent claims including the "flow through channel" limitation identified by the Examiner as allowable over the art of record. Likewise, Applicants respectfully assert that the dependent claims thereto further define allowable subject matter.

### **CONCLUSION**

The Applicants submit that all of the claims are in condition for allowance, which action is requested.

### **Fee Authorization**

Should any extension of time and/or fee be necessary for the timely submission of this paper, such extension of time is hereby requested, and the Commissioner is hereby authorized to charge **Deposit Account No. 50-3994 (Order No. LT00043.3 DIV)**. Any deficiency or overpayment should be charged or credited to this deposit account.

Respectfully submitted,

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